

West Mojave Plan
Regulatory Issues Task Group (Group 3)
BLM Desert District office, Riverside, CA
December 16, 1999

Task Group Members Present:

Mike Conner, Mark Dedon, Jeri Ferguson, Jim Good, Becky Jones, Lowell Landowski, Ramon Mendoza, Art Miller, Mickey Quillman, Bob Rudnick, Jim Schroeter, Bob Strub,

Others Present: Bill Haigh, Project Leader, Larry LaPre, Valerie Pilmer, Ed LaRue, Chuck Bell - West Mojave Plan team; Alana Knaster, Facilitator Lori Diggins, Assistant; Dave Oakleaf (obs)

Agenda Item #1 Announcements

Bill Haigh announced availability of six West Mojave maps provided courtesy of PG&E. He also reported on a recent, high-level meeting of the Departments of Interior and Defense to discuss how proposed expansion of Fort Irwin would interface with the West Mojave Plan and accommodate species covered under the plan. The Draft Evaluation Report covers the "without expansion" scenario. The agencies agreed to convene a scientific panel to determine how expansion could be addressed in the context of conservation strategies. The panel is expected to meet in mid January to address issues related to the desert tortoise. The panel proceedings will serve to help guide a decision by the agencies regarding the implications of the expansion and how to proceed.

Agenda Item #2 Steering Committee Decision re Responsibilities of Task Groups #3 and #4

Bill Haigh also summarized discussion at the Steering Group meeting regarding division of tasks between Task Groups #3 and #4. The Steering Committee decided to keep the groups separate. Task Group #3 will be responsible for decisions related to writing the plan, including: exemptions, one-stop shopping, scope of coverage, and procedures for carrying out strategies under the plan. Task Group #4 will design the structure for implementing the components of the Plan, including: budget, monitoring/reviewing progress, and other governance issues.

Agenda Item #3 Review of November Meeting Notes

Group members noted the following changes to the meeting notes, under "Topics to be considered in recommendations":

- Bullet 9 change to "Private *or state* land surrounded by public land (e.g., BLM purchase as mitigation)"
- Bullet 18 - "Tracking system - fees, banking" - To be addressed by Task Group #4

Agenda Item #4 Progressing Issues Assigned to the Task Group

A. Overview of Local Permitting

Group members reviewed a handout describing permit processes of local jurisdictions to acquaint them with activities that are currently subject to permit requirements. Staff summarized the handout for a typical jurisdiction, distinguishing among activities that require a formal review, those that are ministerial, and those that require no permit. Staff emphasized that permitting coverage and application procedures differ among jurisdictions.

Group members then discussed how local jurisdiction permitting would include environmental review for some activities, but how other activities of interest to the WMP would be exempt. For example, not all discretionary permits are subject to CEQA, despite the potential for substantial impacts. Other projects, such as water conveyance and storage, need no permits or would be exempt by virtue of their location in "non-habitat" areas. BLM staff said they could arrange for a speaker on CEQA issues (Tom Dodson), if desired by the group.

Group members briefly presented examples of procedures for obtaining permits under Sections 7 and 10(a) and under 2081. Only six projects have been issued 10(a) permits, possibly because the arduous procedures deter applicants or because the projects have fallen through the cracks. Becky Jones said that under 2081.1, the State can adopt a federal biological opinion for federally listed species. The State has 30 days to review the opinion. If it does not take any action during that time, the opinion is automatically adopted. To obtain a 2081 permit, the State requires a completed CEQA document, either Neg Dec or EIR. Activities covered by Categorical Exemptions, such as maintenance agreements, can be a problem.

Staff also distributed copies of other regulation information: A Guide to Planning in California, California Department of Fish and Game Regulations and Permit Information, and process flowcharts for CEA process, Section 7 consultation, and Section 10(a)(1)(B) application process.

B. Discussion of Covered Activities

Group members next listed projects they thought might be appropriate for inclusion as covered activities, either for a permit, fee, or other action. Group members listed the following:

- Buildings/Structures/Facilities

- Building a house
- Commercial or industrial projects
- Subdivision
- Communication towers
- Public projects
- Transportation projects
- Tourist buildings/rest stops
- Power plants
- Channel crossing riparian area
- Sewage treatment
- Utilities
- Flood control

Land Uses/Activities

- Agricultural activities
- Off-road recreational events
- Parks and recreation
- Mining
- Grazing
- Filming
- Military installations
- Trash dumps

Maintenance Activities

- Ground clearing - safety
- Haz-Mat clean up
- Fire suppression
- Routine maintenance
- Weed control
- Due diligence
- Vegetation management (herbicide)
- Rodent control
- Activities on already degraded land

Discussion of Possible Exemptions

Alana Knaster asked group members to identify activities on this list or levels of activities that they believed should be excluded from permit requirements or issues related to exemptions. Using building of a house or subdivision as an example, group members noted that the following issues would have to be clarified before making a decision.

- Size of lot/density of construction
- Size of building - disturbed acreage
- Previous review/permit for tract or part of tract

Group members questioned how they should define "exemption". As an example of possible exemptions, the group reviewed activities exempted by the draft plan (Appendix A-7-4), listed below.

- Areas with no vegetation
- Projects in parcels for which a tortoise mitigation fee has been paid
- Maintenance activities in conservation easements when there is no habitat impact
 - Changes in land use on developed property, not including conversion from agricultural use
- Additions to existing single family dwellings, not exceeding 2,250 square feet
- Tenant improvements
- Repair/replacement of existing structures damaged during a natural disaster with no increase in floor area
- Election to provide habitat in lieu of fees

Some members were not comfortable with the exemptions list. Alana Knaster requested that members review the recommendations in Appendix A- 7-4 and come to the next meeting prepared to discuss criteria that

could govern exemptions. Ed La Rue agreed to review the list generated by the group and provide some guidance from a species perspective as to whether he would add or subtract any activities to the list of exemptions.

The Task Group also agreed to come to the next meeting with proposals on how they would handle equity issues. Should all users of the area contribute to fees or should fees or other mitigation activities be borne only by new projects/activities in areas with significant biological resources?

Staff were requested to provide additional information to the group on other plans and how they handle "one stop shopping". Staff agreed to prepare a model based upon this information for the group to consider. They also will search for sample ordinances that the group can consider and information on how other BLM CPs have addressed the exemption issue. This will be provided in advance of the meeting.

Next Meeting

The next meeting date was set for January 26, at 9:30 a.m. at the Riverside BLM District office.